



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/341,299	08/31/99	ROBINSON	V XI/P6407US0

000881
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HM22/1002

EXAMINER

LEVY, N

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

10/02/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

391299

Applicant(s)

Robinson

Examiner

Neil Guy

Group Art Unit

16/6

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/31/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-27 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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Receipt is acknowledged of Declaration -8/31/99. Please provide references Phorart, of which applicant is aware.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following are indefinite: and "the Like" "mild".

Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The invention would not be within the skill of one in the art to produce, without providing toxicity to the wearer, as the invention requires contact with known irritants and neurotoxic poisons "pyrethrum, casida, for example, P.136, 137)

Further, absent identification of ingredients, ratios, and concentration, one would not be able to identify how to repel what pest, for how long, without hurting host, or being ineffective)

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bordenca 3767785.

Bordenca (col 2, 3) provides Fabric coating methods, by dipping (top, col 3) Cotton is addressed at col 5, line 5-15. Insect repellents are natural compounds (col 6, bottom. Bordenca didn't specify wax, nor attach to other materials. Peterson show effective use for Hats, sweatbands, of repellent strip, attached in proximity to head (fig 5,6) but safe. Cassida (p.235,236) show pyrethrum is well known to control, insects, while Hautmann (col 1, line 29-33) show this is a repellent effect, and uses perfume ingredients, citronella. Shono show these components prepared as wax impregnates (col 2, line 52 - lines 30, col 3).for use against skin, on fabric substrate. Thielen disclose eucalyptus, citronella Plurimer disclose chrysanthemum Lesser show pyrethrin in oil white citronella and Cedar, camphor- similar to Eucalyptus are prepared in paraffin (p.150) DAITchi-show peppermint, eucalyptus, Citronella in pet control collars: against hair, show.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize natural compositions to use natural known insect repellants, in wax, a natural carrier, on natural fabrics, for protection by application to clothing,

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using well known methods, art recognized, as this office taken notice include the steps as in Borderica, application to the devices of Peterson, using the repellents neem, Rosemary, citriwella, pyrethum and Eucalyptus.

Applicant has not provided any objective evidence of criticality, nonobvious or unexpected results that the administration of the particular ingredients' or concentration provides any greater or different level of prior art expectation as claimed.

The artisan would find it obvious to prepare particular ingredient combinations, and concentration and ratios of ingredients, depending upon the target species, desired number of applications, length of time for desired protection, ease of handling, non-target toxicity, stability and degradation, for example. The process stem are well known. The selection of active ingredients, adjuvants and carriers are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the concentration, non-critical, and form of each ingredient to optimize the effect desired, and the use of ingredients for the functionality for which they are known to be used is not a basis for patentability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday-Friday from 7:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/sg

9/18/00

A handwritten signature in black ink, appearing to read "Neil S. Levy", written in a cursive style.

NEIL S. LEVY
PRIMARY EXAMINER